

and upon the First through Fourth Counterclaims of Cipla (Case No. 11-1241, ECF No. 175) seeking declaratory judgment of non-infringement and invalidity of the claims of the '770 patent and '014 patent;

and the parties having dismissed without prejudice their respective claims and counterclaims pertaining to the '014 patent (Plaintiff's Count II and Cipla's Second and Fourth Counterclaims in Case No. 11-1241);

and having conducted a non-jury trial on February 10, 11, 18, and 20 regarding the '770 patent (Plaintiff's Counts I and II in Case No. 11-230 and Plaintiff's Count I and Cipla's First and Third Counterclaims in Case No. 11-1241);

and having had the opportunity to consider the trial evidence and having heard the parties' closing arguments on April 16, 2014, for the reasons set forth in the Findings of Fact and Conclusions of Law dated May 21, 2014, the Court having found that Defendants have proven their invalidity defenses of obviousness and obviousness-type double patenting of the '770 patent and therefore having ruled in favor of Defendants;

**IT IS** this 3rd day of June, 2014

**ORDERED AND ADJUDGED** as follows:

1. For the reasons set forth in the Court's Findings of Fact and Conclusions of Law dated May 21, 2014 (Case No. 11-230, ECF No. 313; Case No. 11-1241, ECF No. 415), the '770 patent is invalid for the following reasons: (a) obviousness under 35 U.S.C. § 103; and (b) obviousness-type double patenting;

2. All requests for relief in Plaintiff's Complaint (Case No. 11-230, ECF No. 1) are denied. All requests for relief pertaining to the '770 patent in Plaintiff's First Amended Complaint (Case No. 11-1241, ECF No. 67) are denied;

3. Cipla's Third Counterclaim, for declaratory judgment of invalidity of the '770 patent, is granted;

4. Cipla's First Counterclaim, for declaratory judgment of non-infringement of the '770 patent, is moot in light of the Court's finding that the claims of the '770 patent are invalid due to obviousness;

5. Pursuant to Fed. R. Civ. P. 58, Final Judgment is entered in favor of Roxane and Cipla and against Prometheus;

6. In the event Prometheus files an appeal from this Final Judgment, any motion for attorneys' fees and/or costs under Fed. R. Civ. P. 54(d), including any related discovery, to which Defendants contend they are entitled in connection with their respective claims that this case is exceptional under 35 U.S.C. § 285, shall be considered timely filed if filed and served within thirty (30) days after final disposition of any such appeal; and

7. In the event Prometheus does not file an appeal from this Final Judgment, any motion for attorneys' fees and/or costs under Fed. R. Civ. P. 54(d), including any related discovery to which Defendants contend they are entitled in connection with their respective claims that this case is exceptional under 35 U.S.C. § 285, shall be considered timely filed if filed and served within 30 days after the expiration of the time for filing a notice of appeal under Fed. R. App. P. 3 and 4.

Dated: June 3, 2014

**/s/ Faith S. Hochberg**  
**Hon. Faith S. Hochberg, U.S.D.J.**